

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER AFTER PRELIMINARY HEARING</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 1</b> <b>ORDER ____ OF ____</b>	<b>CASE NO.</b> <b>PETITION NO.</b>
Court address		Court telephone no.

1. In the matter of  
name(s), alias(es), DOB \_\_\_\_\_
2. Date of hearing: \_\_\_\_\_ Judge/Referee: \_\_\_\_\_ Bar no. \_\_\_\_\_
3. Removal date: \_\_\_\_\_ (specify for each child if different)

**THE COURT FINDS:**

4. The child(ren) ☐ is/are ☐ is/are not subject to the continuing jurisdiction of another court. Court: \_\_\_\_\_
5. A petition has been submitted alleging that the above child(ren) come(s) within the provisions of MCL 712A.2(b).
6. ☐ Notice of hearing was given as required by law. ☐ Notice of proceedings is to be given as required by law.
7. ☐ a. There is probable cause to believe the legal/putative father(s) is/are: (name each child, his/her father, and whether legal or putative)
- ☐ b. The putative father of \_\_\_\_\_ is unknown and cannot be identified.
- ☐ 8. There is good cause to adjourn the preliminary hearing because \_\_\_\_\_ .  
☐ Petitioner recommends removal of the child(ren) from the home to assure the immediate safety of the child(ren).
- ☐ 9. The probable cause determination was waived by all parties present.
10. There ☐ is ☐ is not probable cause that one or more of the allegations in the petition are true.
- ☐ 11. There is probable cause the ☐ parent ☐ guardian ☐ legal custodian ☐ other person residing in the child(ren)'s home abused the child(ren). Presence of the alleged abuser in the home ☐ does ☐ does not present a substantial risk of harm to the child(ren)'s life, physical health, or mental well being and he/she ☐ should ☐ should not be ordered out of the home. (use form JC 65, Order Removing Alleged Abuser from Child's Home, as appropriate)
12. ☐ a. Contrary to the welfare findings were made in a prior order.
- ☐ b. It is contrary to the welfare of the child(ren) to remain in the home because: (attach separate sheets as necessary)
- ☐ 13. ☐ a. Reasonable efforts to prevent removal of the child(ren) from the home were made as determined in a prior order.
- ☐ b. Reasonable efforts were made to prevent removal of the child(ren) from the home. Those efforts include: (specify)
- ☐ c. Reasonable efforts to prevent removal of the child(ren) from the home were not made.

(SEE SECOND PAGE)

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<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER AFTER PRELIMINARY HEARING</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 2</b> ORDER ____ OF ____	<b>CASE NO.</b> <b>PETITION NO.</b>
Court address		Court telephone no.

In the matter of

- ☐ 14. a. Reasonable efforts are not required to prevent the child(ren)'s removal from the home due to  
☐ the ☐ mother ☐ father subjecting the child(ren) to the aggravated circumstance(s) of \_\_\_\_\_ as provided in section MCL 722.638(1) and (2), and as evidenced by \_\_\_\_\_.
- ☐ the ☐ mother's ☐ father's conviction for murder of another child of the parent.  
☐ the ☐ mother's ☐ father's conviction for voluntary manslaughter of another child of the parent.  
☐ the ☐ mother's ☐ father's conviction for aiding or abetting in the murder or manslaughter of another child of the parent, attempting to murder the child(ren) or another child of the parent, or conspiring or soliciting to commit the murder of the child(ren) or another child of the parent.  
☐ the ☐ mother's ☐ father's conviction for felony assault that resulted in serious bodily injury to the child(ren) or another child of the parent.  
☐ the ☐ mother's ☐ father's involuntary termination of parental rights to a sibling of the child(ren).
- b. Reasonable efforts to preserve and reunify the family to make it possible for the child(ren) to safely return home are  
☐ not required because the parent subjected the child or another child of the parent to one of the circumstances stated above.
- OR**  
☐ still recommended because:

(when item 14 is checked, either complete item 16 below or schedule a permanency planning hearing within 30 days of this determination)

- ☐ 15. ☐ a. Reasonable efforts shall be made to preserve and reunify the family to make it possible for the child(ren) to safely return home.  
☐ b. Reasonable efforts shall not be made to preserve and reunify the family because it would be detrimental to the child(ren)'s health and safety.
- ☐ 16. Since reasonable efforts to prevent removal or to reunite the child(ren) and family are not required, a permanency planning hearing was conducted. (**use and attach form JC 64**, Order Following Permanency Planning Hearing, Pre-Termination)
17. Conditions of custody in the home and with the individual with whom the child(ren) reside(s)  
☐ a. are adequate to safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, and mental well-being.  
☐ b. are not adequate to safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, and mental well-being.  
☐ No provision of service or other arrangement except removal of the child(ren) is reasonably available to adequately safeguard the child(ren) from the risk of harm to the child(ren)'s life, physical health, and mental well-being.  
☐ Conditions of custody at the placement away from the home and with the individual with whom the child(ren) is/are placed are adequate to safeguard the child(ren)'s life, physical health, and mental well-being.
- ☐ 18. Parenting time with \_\_\_\_\_, even if supervised, may be harmful to the child(ren).
- ☐ 19. A petition to terminate parental rights of \_\_\_\_\_ has been filed, requiring automatic suspension of parenting time.
- ☐ 20. The child is a member of or eligible for membership in an American Indian tribe or band named \_\_\_\_\_

\_\_\_\_\_. (complete and mail Form JC 48) The findings required by MCR 3.980 have been made on the record.

(SEE THIRD PAGE)

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER AFTER PRELIMINARY HEARING</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 3</b> <b>ORDER ____ OF ____</b>	<b>CASE NO.</b> <b>PETITION NO.</b>
Court address		Court telephone no.

In the matter of

**IT IS ORDERED:**

21. The petition ☐ is authorized. ☐ is not authorized. ☐ is not authorized pending resumption of the preliminary hearing.
- ☐ 22. Notice is to be given to the legal/putative father(s) as required by law. ☐ The father was not present and must appear at the next hearing. ☐ The putative father was present at this hearing and shall establish paternity within 14 days.

- ☐ 23. The child(ren) is/are
- ☐ placed with the Department of Human Services for care and supervision, and
- a. the parent(s), guardian, or legal custodian shall execute all documents necessary to release confidential information regarding the child(ren) including medical, mental, and educational reports, and shall also, within 7 days, provide the Department of Human Services with the name(s) and address(es) of the medical provider(s) for the child(ren). Any medical provider for the child(ren) shall release the medical records of the child(ren) to the Department of Human Services.
  - b. if the child(ren) is/are placed in the home of a relative, a home study shall be performed by the Department of Human Services and a copy of the home study submitted to the court not more than 30 days after the placement.
  - c. upon request, the Department of Human Services shall release to the foster parent the information concerning the child(ren) in accordance with MCL 712A.13a(13).

- ☐ released to \_\_\_\_\_ under the supervision of the Department of Human Services. ☐ The following terms and conditions apply to the parent(s), guardian, or legal custodian:
- Name of parent, guardian, or legal custodian

- ☐ 24. Each child shall have ☐ a psychological evaluation ☐ counseling to determine appropriateness and conditions of parenting time.

- ☐ 25. Parenting time of \_\_\_\_\_ is
- ☐ supervised by the Department of Human Services and/or its designee.
- ☐ unsupervised at the discretion of the Department of Human Services.
- ☐ suspended while psychological evaluation or counseling is conducted, or until further order of the court.

- ☐ 26. Parenting time of \_\_\_\_\_ is
- ☐ supervised by the Department of Human Services and/or its designee.
- ☐ unsupervised at the discretion of the Department of Human Services.
- ☐ suspended while psychological evaluation or counseling is conducted, or until further order of the court.

- ☐ 27. Parenting time of \_\_\_\_\_ is
- ☐ supervised by the Department of Human Services and/or its designee.
- ☐ unsupervised at the discretion of the Department of Human Services.
- ☐ suspended while psychological evaluation or counseling is conducted, or until further order of the court.

28. Placement shall continue pending ☐ resumption of the preliminary hearing ☐ pretrial ☐ trial ☐ disposition

on \_\_\_\_\_ .

Date and time

- ☐ 29. Other:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

## MCL 722.638 - AGGRAVATED CIRCUMSTANCES

- (1) The Department shall submit a petition for authorization by the court under Section 2(b) of Chapter XIIA of 1939 PA 288, MCL 712A.2, if one or more of the following apply:
  - (a) The Department determines that a parent, guardian, or legal custodian, or a person who is 18 years of age or older and who resides for any length of time in the child's home, has abused the child or a sibling of the child and the abuse included one or more of the following:
    - (i) Abandonment of a young child.
    - (ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.
    - (iii) Battering, torture, or other severe physical abuse.
    - (iv) Loss or serious impairment of an organ or limb.
    - (v) Life threatening injury.
    - (vi) Murder or attempted murder.
  - (b) The Department determines that there is risk of harm to the child and either of the following is true:
    - (i) The parent's rights to another child were terminated as a result of proceedings under Section 2(b) of Chapter XIIA of 1939 PA 288, MCL 712A.2, or a similar law of another state.
    - (ii) The parent's rights to another child were voluntarily terminated following the initiation of proceedings under Section 2(b) of Chapter XIIA of 1939 PA 288, MCL 712A.2, or a similar law of another state.
- (2) In a petition submitted as required by subsection (1), if a parent is a suspected perpetrator or is suspected of placing the child at an unreasonable risk of harm due to the parent's failure to take reasonable steps to intervene to eliminate that risk, the Department of Human Services shall include a request for termination of parental rights at the initial dispositional hearing as authorized under Section 19b of Chapter XIIA of 1939 PA 288, MCL 712A.19b.

### CHECKLIST FOR ADVICE OF RIGHTS AND GENERAL PROCEDURE FOR PRELIMINARY HEARING

1. ☐ Determine whether parent(s), guardian, or legal custodian have been notified, are present, and if not present, whether to proceed in their absence.
2. ☐ Determine whether the lawyer-guardian ad litem for the child is present and direct that the lawyer-guardian ad litem for the child receive a copy of the petition.
3. ☐ Determine whether the minor has no father as defined in MCR 3.903(A)(7) and take appropriate action as described in MCR 3.921(C).
4. ☐ If a respondent is present, assure that each respondent has a copy of the petition.
5. ☐ Read the allegations in the petition in open court unless waived by all parties present.
6. ☐ Determine whether the petition should be dismissed or the matter referred to alternate services; otherwise, the preliminary hearing shall continue.
7. ☐ Advise the respondent of the right to the assistance of an attorney.
8. ☐ Advise the respondent of the right to trial on the allegations in the petition and that the trial may be before a referee unless a timely demand for a jury or judge is filed.
9. ☐ Allow the respondent an opportunity to deny or admit allegations and make a statement of explanation.
10. ☐ If the hearing is held by a referee, advise the parties of the right to file a request for review of the referee's recommended findings and conclusions.
11. ☐ Inquire whether the child is subject to the continuing jurisdiction of another Michigan court and, if so, which court.
12. ☐ Inquire if the minor or either parent is a member of any American Indian tribe or band, and if so, determine the identity of the child's tribe, follow the procedures in MCR 3.980 and determine whether to continue with the preliminary hearing.
13. ☐ Unless the preliminary hearing is adjourned, decide whether to authorize the filing of the petition, and if authorized, whether to release the child to a parent, guardian, or legal custodian or whether to place the child out of the home as prescribed by MCR 3.965(C) and (D). **If this is the first court order authorizing removal of the child, make contrary to the welfare findings and findings regarding the efforts to prevent removal.** Reasonable efforts findings must be made now or within 60 days of the date of removal.
14. ☐ Advise the parent(s) when additional costs or reimbursement may be assessed.
15. ☐ Having ordered placement of the child outside the child's home, inform the parties of the following:
  - a. that the agency has the responsibility to prepare an initial services plan within 30 days after the child's placement.
  - b. the general elements of an initial services plan as required by the rules promulgated pursuant to 1973 PA 116, MCL 722.111 to 722.128.
    - the background of the child(ren) and the family;
    - an evaluation of the experiences and problems of the child(ren);
    - a projection of the expected length of stay in foster care; and
    - an identification of specific goals and projected time frames for meeting the goals.
  - c. that participation in an initial services plan is voluntary without a court order.
  - d. that, on motion of a party, the court will review the initial services plan and may modify the plan if it is in the best interests of the child.
16. ☐ Having found the alleged abuser should be ordered out of the home, complete JC 65, Order Removing Alleged Abuser from Child's Home.